

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Donald W. Gay,

Petitioner,

v.

Warden of Perry Correction Institute,

Respondent.

C/A No. 9:22-cv-1766-SAL

OPINION AND ORDER

Pro se petitioner Donald W. Gay (“Petitioner”) filed this habeas corpus action pursuant to 28 U.S.C. § 2254. This matter is before the court for review of the August 4, 2022 Report and Recommendation of Magistrate Judge Molly H. Cherry (the “Report”), ECF No. 8, recommending the court dismiss this action, without prejudice, due to Petitioner’s failure to bring this case into proper form. Attached to the Report was a notice advising Petitioner of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. [ECF No. 8 at 4.] Petitioner has not filed objections, and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of only those portions of the Report that have been specifically objected to, and the court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to

accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the court finds no clear error, adopts the Report, ECF No. 8, and incorporates the Report by reference herein. As a result, this action is dismissed without prejudice.

IT IS SO ORDERED.

September 12, 2022
Columbia, South Carolina

/s/Sherri A. Lydon
Sherri A. Lydon
United States District Judge